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REGION 2 NEWS

NJ Spotlight: Taking Inventory Seen as First Step in Legislative Fix for NJ's Lead Issues

A legislative approach to dealing with the pervasive contamination of drinking water with unsafe levels of lead moved forward yesterday, with a bill (S-4177) requiring a statewide inventory of lead service lines in New Jersey and calling for their eventual replacement over the next 10 years.

NJ Spotlight: PennEast Will Appeal to US Supreme Court Over Lower Court's Adverse Ruling

PennEast Pipeline LLC yesterday vowed to appeal to the U.S. Supreme Court a lower court ruling that looms as a major impediment to its proposed 120 mile-project to bring natural gas from Pennsylvania into New Jersey.

Brooklyn Paper: DEADLY FUNGUS PLAGUES NUMEROUS KINGS COUNTY HOSPITALS: REPORT

Brooklynites suffered the highest infection rates of a deadly, drug-resistant fungus in New York, with more than 200 out of the state's 388 cases occurring in Kings County, a health report revealed on Wednesday.

Newark Advocate: Clean Water Act at 50: The water is cleaner, but the politics are messier

In June 1969, a Time Magazine article garnered national attention when it brought to light the water quality conditions in Ohio: a river had literally caught fire.

Burlington County Times: Northern Burlington student Abbey Goodenough named 2020 NJ Ag Fair Ambassador

Abbey Goodenough is a 17-year-old senior at Northern Burlington County Regional High School. Next year, she will travel the state of New Jersey advocating for the agriculture industry.

Virgin Islands Daily News: Stench keeps Central closed

St. Croix Central High School will remain closed today as efforts to identify a gaseous odor on campus continue. The closure marks the fourth straight day of disrupted classes for Central High School students this week.

Albany Times-Union: Albany County lawmakers approve 5 cent paper bag fee

Paper or plastic?

Queens Chronicle: Cuomo threatens to drop National Grid

Gov. Cuomo has issued an ultimatum to National Grid — start hooking up customers to gas lines within two weeks or lose its license to operate in New York City and on Long Island.

Queens Chronicle: FAA confirms folks have AirTrain worries

A recent report from the Federal Aviation Administration has confirmed what interested observers already knew — residents living near LaGuardia Airport have serious concerns about the potential health, environmental and aesthetic impacts that a proposed AirTrain could unleash.

Queens Courier: Get the lead out: City cracks down on the toxic element in schools, housing

Last year, almost 4,000 children were diagnosed with elevated blood lead levels in New York, with much of the exposure happening in public schools and public housing, according to members of the City Council.

Bridgewater Courier News: NJDEP says company polluted Farrington Lake with oil, municipal court erred in dismissing case

The state Department of Environmental Protection filed a complaint against a company it says was behind an oil leak in Farrington Lake, but a borough municipal court dismissed the charges.

NorthJersey.com: Hillsdale building razed due to toxic PCE chemicals left by former dry cleaning business

A former dry cleaning business that left contaminated soil and groundwater when it shut in 1996 has been razed, and the tainted earth will soon be removed and replaced with clean fill.

Caribbean News: When Will Renewables Flourish in Puerto Rico?

Puerto Rico could be on the verge of a renewable energy boom that could lead the island to kick the fossil-fuel habit in the next three decades while consolidating an industry that could help power up the troubled local economy. However, foot-dragging by the public utility monopolizing the production and sale of electricity on the island could shoot down these aspirations, according to renewable energy-industry executives and professionals.

Albany Times-Union: Gillibrand wants Clean Water Act to cover PFAS

U.S. Sen. Kirsten Gillibrand is preparing to offer legislation that would place PFAS under control of the federal Clean Water Act.

NATIONAL

Transparency Proposed Rule

Career official draws heat for defending science proposal

Ex-government health chief joins warnings about EPA proposal

EPA Defends 'Secret Science' Rule to House Democrats

Scientists join Democrats in panning EPA's 'secret science' rule

'Secret science' plan is back, and critics say it's worse

Democrats urge career EPA scientist to resist research limits

Insecticides

EPA proposes relaxed rules for widely used insecticides

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EPA Gets Partial Win in 9th Cir. Chemical Use Regulations Fight

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EPA Must Face Activists' Lake Erie Phosphorus Pollution Lawsuit

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EPA study rebuked in escalating clash over soot standards

NJ Spotlight

<https://www.njspotlight.com/2019/11/taking-inventory-seen-as-first-step-in-legislative-fix-for-njs-lead-crisis/>

Taking Inventory Seen as First Step in Legislative Fix for NJ's Lead Issues

Measure calls for statewide inventory of lead service lines and 10-year replacement plan, but input from lawmakers, interest groups could change it significantly

By Tom Johnson

November 15, 2019

A legislative approach to dealing with the pervasive contamination of drinking water with unsafe levels of lead moved forward yesterday, with a bill ([S-4177](#)) requiring a statewide inventory of lead service lines in New Jersey and calling for their eventual replacement over the next 10 years.

While the Senate Community and Urban Affairs Committee approved Sen. Troy Singleton's (D-Burlington) measure as part of a three-bill package, the legislation is likely to change significantly based on input from interest groups who endorsed the effort, but still want substantive changes to the measures.

The legislation is part of a growing concerted effort to address statewide problems posed by lead contamination of drinking water, an issue confronting Newark and many other parts of the state. That city has adopted an aggressive approach to replace lead service lines with a \$120 million bond issue in as little as three years.

Meanwhile, Gov. Phil Murphy has proposed putting a \$500 million bond issue to replace lead service lines, which are believed to be the main source of contamination. But most advocates consider this proposal to be far too small to address the scope of the problem, which the state Department of Environmental Protection projects could cost the state as much as \$2.3 billion.

With other bills pending to deal with other aspects of the lead crisis, it is likely what will eventually emerge from the lame-duck Legislature will be a combination of initiatives pushed by lawmakers, the Governor's Office and public interest groups.

The overriding imperative of both lawmakers and advocates is to initiate a statewide inventory of lead service lines and some sort of financing system to replace them, although some groups want a quicker time frame than 10 years.

"We have a systematic problem in the state and need to identify where they are, and then replace them," said Jeff Tittel, director of the New Jersey Sierra Club. "We cannot kick the can down the road any longer."

Sen. Ron Rice (D-Essex), vice-chairman of the committee, agreed. "We need to expedite the inventory. At least the governor came up with a number. We'll know the real number when we get the inventory."

That is when the real fight begins: determining what share ratepayers pay in replacing lead service lines into homes and what share water companies pay.

'A human right'

"Safe drinking water is a human right," Singleton said. "Unfortunately, we are struggling across the country and here in New Jersey with how to deal with the current water crisis and the long-term problem of upgrading our aging water infrastructure."

Under his bill, water systems would have to provide a detailed inventory of all known lead service lines in their systems within 18 months and then inform customers of problems.

Unlike another bill ([S-1783](#)) that a separate Senate committee approved in February, the measure also would mandate replacement of lead service lines by allocating costs between customers and shareholders. That provision is subject to debate, and is likely to be tinkered with as the bill moves through the Legislature.

Other bills in the package would require the disclosure of lead plumbing in residential and other properties prior to their sale ([S-3990](#)), similar to disclosing unsafe radon levels in homes before they are sold. Another bill ([S-4110](#)) would allow municipalities to adopt ordinances allowing them to go into residential properties to replace lead service lines as long as they notify residents in advance.

Finally, the Senate Education Committee reported a bill ([S-4115](#)) that would require the state Department of Education to publish all drinking water reports and their testing results on its website.

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NJ Spotlight

<https://www.njspotlight.com/2019/11/penneast-will-appeal-to-us-supreme-court-over-lower-courts-adverse-ruling/>

PennEast Will Appeal to US Supreme Court Over Lower Court's Adverse Ruling

Company looking to overturn decision that denied its bid to condemn state-owned lands for \$1 billion pipeline project

By Tom Johnson

November 15, 2019

PennEast Pipeline LLC yesterday vowed to appeal to the U.S. Supreme Court a lower court ruling that looms as a major impediment to its proposed 120 mile-project to bring natural gas from Pennsylvania into New Jersey.

The company announced in a press release it would seek to overturn a decision by the U.S. Court of Appeals for the Third Circuit that denied PennEast's bid to condemn state-owned lands for its \$1 billion project.

[The three-judge panel ruled in September](#) that private companies do not have the authority to condemn state-owned lands under the 11th Amendment to the U.S. Constitution. Under the doctrine of sovereign immunity, a state cannot be sued by a private company without its consent.

The lower court decision upends nearly 80 years of practice by the natural gas industry and ignores the intent of Congress in passing a critical provision of the Natural Gas Act, according to PennEast.

"The Third Circuit's decision has implications far beyond the PennEast project," said Anthony Cox, chairman of the PennEast Pipeline Company Board of Managers. "No interstate pipeline nationwide of any significant length can be built without crossing land where a state claims an interest."

PennEast and its backers say the pipeline is needed to provide supplies to New Jersey customers. More than 75% of customers in the state heat their homes with natural gas, which also provides more than 41% of the state's electricity.

"Demand for natural gas continues to grow, and new infrastructure across the Northeast has not kept up, in part due to politics and regulatory delays," Cox said. "The result has been forced gas moratoriums that threaten customer reliability, higher energy bills and higher carbon emissions."

The decision to ask the highest court to review the case is not unexpected. “Based on the law, we don’t think the Supreme Court should pick up this case. However, given Trump’s appointments to the court, who knows,” said Jeff Tittel, director of the New Jersey Sierra Club.

If the nation’s highest court rules against PennEast, the company could opt to ask Congress to rewrite the Natural Gas Act to allow condemnation of state-owned lands, or reconfigure the proposed pipeline route around state lands.

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Brooklyn Paper

<https://www.brooklynpaper.com/deadly-fungus-plagues-numerous-kings-county-hospitals-report/>

DEADLY FUNGUS PLAGUES NUMEROUS KINGS COUNTY HOSPITALS: REPORT

By Rose Adams

November 15, 2019

Brooklynites suffered the highest infection rates of a deadly, drug-resistant fungus in New York, with more than 200 out of the state’s 388 cases occurring in Kings County, a health report revealed on Wednesday.

Candida auris, an antifungal-resistant yeast infection, has germinated in New York for the past two years, with the number of cases jumping from 37 to 388 between 2016 and 2018, according to the report. The disease is notoriously difficult to diagnose and treat, and doesn’t respond to common anti-fungal treatments used to combat similar infections, according to the [Center for Disease Control](#).

The deadly fungus preys on patients who have weak immune systems and use invasive devices, such as ventilators and catheters, and the elderly are especially susceptible to infection — the average patient is 69 years old. About half of people who contract C. auris die within 90 days, although some patients who suffer from the infection may die from a combination of causes, according to the [New York Times](#).

The infection tends to proliferate in healthcare facilities, where it spreads on equipment, clothing, and skin, according to the report, which released the names of medical facilities in the state that have treated C. auris patients.

In Brooklyn, 54 [healthcare facilities made the list](#) — including 15 hospitals, 36 nursing homes, and three hospices. Many major hospitals and nursings homes, such as Maimonides Medical Center, Coney Island Hospital, and NYU Lagone, have treated patients with the infection.

Officials say that they decided to disclose the facilities — making New York the first state in the nation to do so — in an effort to bring attention to the rapidly spreading infection, which the Center for Disease Control labels an [“urgent threat.”](#)

Despite the dire findings, health experts urge patients to continue visiting medical facilities that treat patients with C. auris, claiming that many do a good job containing the infection and aren’t currently treating affected patients.

Health officials also argue that the state is taking steps to mitigate the spread of C. auris by conducting onsite inspections at healthcare facilities, providing infection control education, and monitoring facility compliance with infection control recommendations, among other precautions.

And local hospitals say that they’re doing their part to contain the disease.

“All Mount Sinai Health System hospitals have developed policies and procedures,” said a representative for Mount Sinai Brooklyn, which has treated *C. auris* patients. “Protocols include close monitoring of hand hygiene, using contact precautions (wearing gloves and gowns), using effective disinfectants, and ensuring that our laboratory can rapidly identify *C. auris*. Use of these extra steps reduce spread of *C. auris*.”

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Newark Advocate

<https://www.newarkadvocate.com/story/news/local/2019/11/15/clean-water-act-50-water-cleaner-but-politics-messier/2578649001/>

Clean Water Act at 50: The water is cleaner, but the politics are messier

By Lucia Walinchus

November 15, 2019

In June 1969, a Time Magazine article garnered national attention when it brought to light the water quality conditions in Ohio: a river had literally caught fire.

Oil-soaked debris ignited after sparks, likely from a passing train, set the slick ablaze. Local media actually didn't spend much time reporting on the fire. This was, after all, at least the 13th time a waterway had been set ablaze in Ohio alone, not to mention river fires in Philadelphia, Baltimore and other industrial cities. Time Magazine didn't even run pictures of this specific fire. Instead, they used stock photos of another fire that happened in the same area in 1957.

But America in 1969 had had enough with dangerous rivers. At the national level, what would eventually become the Clean Water Act passed with broad bipartisan support in 1972. In fact, the law was so popular on both sides of the aisle that when President Richard Nixon eventually vetoed the bill, Congress overrode his veto.

Today, the quality of river water has improved markedly since the early 1970s, though critics say the red tape imposed through the Clean Water Act has become burdensome.

The Clean Water Act has not been altered much over the past 50 years, though how we interpret the act has recently changed dramatically. And water quality concerns continue to mount as studies have shown that some pollutants, such as PFAS, are a grave concern to public health and aren't regulated by the Clean Water Act.

Limiting pollution, raising awareness

Though a Cuyahoga River fire near Cleveland helped to spark the Clean Water Act movement, arguably the law had an even greater effect on the Ohio River.

The Ohio River drains the southern three-quarters of Ohio, as well as parts of 14 other states. A history of early industrialization, combined with legacy stormwater systems and heavy agricultural use, led to the Ohio River being named the “most polluted” river in the United States as recently as 2015.

Still, today the river is much cleaner than it was. Residents also have more access to water quality information: They can look up what contaminants their drinking water contains or if the Ohio River has tested positive for harmful bacteria.

The Clean Water Act requires a permit for any regulated pollutants dumped into large bodies of water. Congress authorized the general framework to protect the quality of local waters and delegated its administration to the

U.S. Environmental Protection Agency and the states. For example, the EPA publishes scientifically justified limits for various pollutants under the act. States can write standards for those pollutants that are at least as protective as federally recommended criteria or more strict.

For example, E. coli bacteria can't exceed 126 colony-forming units of bacteria per 100 milliliters. The EPA recommended the standard first in 1986, based in part on studies of a sewage-contaminated Ohio River beach near Cincinnati where swimmers got sick. In that particular case, the median coliform density of the water registered 2,300 units of bacteria per 100 milliliters.

The act significantly reduced the amount of contaminants found in local streams, though even in 2019, the United States still has not complied with the pollution and quality goals it set for 1983.

Notably, the act exempted most agricultural uses from permit applications, so that farmers spraying fertilizer would not need to seek a permit to do so. Nutrient overload, however, is a "widespread and worsening problem," according to EPA reports.

Since its inception, the act has instituted water quality standards for 150 different pollutants, such as toxic chemicals, nitrogen and pathogens. Altogether, the United States has spent about \$129 billion on water infrastructure, including Clean Water Appropriations and water treatment plant financing.

Recent rollbacks

The Clean Water Act says it is a comprehensive program "for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters."

But what exactly are "navigable waters and ground waters?"

This question went all the way to the U.S. Supreme Court in 2006, in *Rapanos v. United States*, when the Supreme Court had to decide whether four former Michigan wetlands counted as regulated bodies. They each laid near ditches or man-made drains that eventually emptied into navigable waters, though they weren't directly adjacent to those rivers.

The court noted that the act made it illegal to dump without a permit into "navigable waters," and the statute defines "navigable waters" as "the waters of the United States, including the territorial seas."

Four justices decided that "waters of the United States" could only include continuously flowing bodies of water. Another four justices disagreed, noting that the Supreme Court had previously ruled that the entire watershed is key to each navigable water. Justice Anthony Kennedy wrote a concurring opinion, saying a wetland must possess a significant nexus to a navigable water.

But what exactly is a "significant nexus?"

Over the next several years, the term sparked a plethora of lawsuits. The Obama administration solicited a 25-member review panel to look at the results of 1,200 studies and to solicit the advice of 49 experts for an opinion on exactly which wetlands should be covered.

The EPA then came up with the 2015 "Waters of the United States" rule based off of that opinion. However, due to litigation, the WOTUS rule currently only applies in 22 states and federal territories. Then, in September 2019, the Trump Administration repealed the rule.

As a result, at least 16 million acres across the United States lost protections, with the possibility of more losses to come.

"We already have lost in Ohio, historically, around 90 percent of our wetlands," said Mažeika Sulliván, director of the Wilma H. Schiermeier Olentangy River Wetland Research Park at Ohio State University. "And these wetlands are what helps flood control. These wetlands sequester nutrients, so that nutrients coming off of

[agricultural] fields or other types of things, wetlands pick these up and transform them before they get in the streams and rivers downstream and end up in the Gulf of Mexico.”

Sullivan was on the panel that reviewed the changes and suggested the broader definition of water bodies to be covered by the Clean Water Act. Sullivan said Ohio was an excellent case study because it has had water crisis after water crisis: oil spills, algal blooms and mussel die-offs. “We have all these problems that we’re dealing with, we have climate change that’s exacerbating it, and then to take away the few wetlands that we do have, the remaining wetlands, from a scientific standpoint is fully unsupported,” he said.

Sullivan said seasonal rivers need to be included, too, because anything dumped into a dry river bed will still pollute the river farther down when the rain comes.

Tony Francois, senior attorney at the Pacific Legal Foundation, disagreed with regulating “intermittent and ephemeral” streams. Francois said the Clean Water Act has done a “great job” at cleaning up local rivers, but Congress simply didn’t intend to broaden the scope past navigable waters. Ranchers and farmers are often caught in the crosshairs because they don’t know which regulations apply to them.

“Everybody struggles with whether or not a given aquatic feature on private property is covered or not. There’s a very expensive consulting process that you have to go through to get the government to tell you ‘yay’ or ‘nay,’ one way or another,” he said.

For example, his client Joseph Robertson was criminally convicted after digging drainage ponds. The case went to the Supreme Court, though it was dismissed after Robertson passed away this year.

“Right now, what’s developed is this partisan back and forth between administrations of different political parties of how broadly or narrowly to define this term,” Francois said. “That’s not good for the regulated public, and that’s not good for the environment either.”

In April, the Trump Administration issued an executive order directing the EPA to update its regulations on the Water Quality Certification process under the CWA as well. The proposed changes would, among other things, waive the required permit to dump regulated pollutants into large bodies of water if a state or tribe didn’t issue one in the legally required period. It would also limit environmental aquatic impact statements — for example, by not noting air quality or transportation effects.

The public comment period on the measure lasted from Aug. 22 to Oct. 21, with nearly 4,000 comments registered. A new regulation is expected later in the winter.

“That’s a really interesting one because it’s probably the most important lever for states to weigh in on federal permitting ... including [for] some of the natural gas infrastructure that’s going on in Ohio,” said Madeline Fleisher, an environmental lawyer at Dickinson Wright in Columbus and a former associate in the Environment and Natural Resources Division at the Department of Justice. “So I think that will be really important for folks in Ohio to keep an eye on.”

Looking to the future

The biggest difference between now and before the Clean Water Act is that citizens who have grown up with it have come to expect clean water, and they aren’t happy when the river gets polluted, said Howard Learner, president of the Environmental Law and Policy Center, the largest Midwest public-interest environmental legal advocacy group.

“I think we’re at a transition point now where there is an overwhelming public consensus on the need for businesses to reduce pollution in community waterways and for our state and federal governments to step up by implementing enforceable regulatory standards leading to cleaner, safe drinking water, robust fisheries and enjoyable outdoor recreation,” he said.

The Environmental Law and Policy Center sued the U.S. EPA for failing to enforce the act after toxic algal blooms formed near Toledo in 2017. The Ohio EPA later acknowledged that western Lake Erie waters were impaired. The parties involved are still sorting out exactly how to prevent more algae.

So far, the EPA has finalized 46 deregulatory actions under the Trump administration, and EPA Administrator Andrew Wheeler has publicly stated that his goal is to continue pursuing a similar policy.

For this article, an EPA spokesman issued a statement, saying that, “The EPA’s existing certification rules have not been updated in nearly 50 years, were promulgated before Section 401 [the CWA permitting process] was enacted, and are inconsistent with the text of CWA Section 401. The EPA is proposing to modernize and clarify the timeline and scope of CWA Section 401 certification review and action to be consistent with the plain language of the CWA.”

At the state level, water quality issues are a perennial concern. The Clean Water Act so far does not regulate PFAS (per- and polyfluoroalkyl substances) used in firefighting foam, food packaging and industrial processes. In the last week of September, Gov. Mike DeWine ordered the Ohio EPA and Department of Health to develop a plan for testing drinking water for PFAS, due Dec. 1. Neighboring Pennsylvania is in the process of testing more than 300 drinking water sources across the state to try to determine the scope of the contamination problem.

Dustin Herrmann, assistant professor of environmental studies at the University of Cincinnati, said environmental change will have to come from not only regulatory forces, but also market pressures. Herrmann got his Ph.D. in ecology, researching how urban landscapes affect the water and nitrogen cycles and focusing on how cities can use green infrastructure to meet CWA standards.

The Ohio River, he said, is a “defining feature of a large region.”

“It’s a shared identity. Wetland 732 in County E doesn’t really have a shared identity. But the power we all see with the Ohio River — we have this shared care for it. Its restoration would be symbolic of something bigger.”

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Burlington County Times

<https://www.burlingtoncountytimes.com/news/20191115/northern-burlington-student-abbey-goodenough-named-2020-nj-ag-fair-ambassador>

Northern Burlington student Abbey Goodenough named 2020 NJ Ag Fair Ambassador

By Jarrad Saffren

November 15, 2019

Abbey Goodenough does not yet know this about herself, but she would make a great politician.

There are three primary reasons why.

No. 1: Her passion, agriculture, is essential to the survival of everyone.

No. 2: She has a crystal clear way of explaining agriculture’s importance to the average person.

“You’re wearing clothes, right? You ate food today, right?” she said last week over the phone. “Everything we have, the clothes we wear, the blankets we sleep under at night, everything we have, revolves around agriculture.”

No. 3: She loves explaining her passion to people of all ages because she loves talking to people of all ages.

“I’m a talker,” Goodenough said.

But despite her evident and earnest political qualities, Goodenough, a 17-year-old senior at Northern Burlington County Regional High School, does not yet know what she wants to be when she grows up.

She does, however, know what she wants to do for the next year.

In 2020, Goodenough will serve as New Jersey’s Agricultural Fair Ambassador. The position will require her to visit agricultural fairs and speak at agricultural events across the state, as well as attend the New Jersey Agricultural Convention from Feb. 4-6 in Atlantic City.

On Nov. 3, the Columbus resident traveled to O’Connor’s American Bar and Grille in Mount Holly for the final round of competition for this prestigious position. After submitting an essay and a resume and going through an interview with judges, Goodenough gave a speech before the judges and her competitors.

In the speech, she promised to advocate for the agricultural industry by talking to as many people as possible at the fairs and events.

“There are so many misconceptions and there is so much misinformation, so I want to advocate in favor of ag,” Goodenough said. “Especially children. They are so young. Their minds are a blank slate.”

The panel of three judges, a representative from the Jersey Fresh program and two coordinators from the NJ Ag Fair Association, were sold. When they added up the scores from the essays, resumes, interviews and speeches at the end of the night, Goodenough won.

After the state convention in February, she will get to visit local ag fairs throughout New Jersey next summer.

“I’m excited to spread the message that ag is important and that farmers aren’t the bad guys,” she said. “Some people think ag is bad for the environment or inhumane. That’s not the case.”

This message matters to Goodenough because she knows the ag industry is so important, but also because she grew up in it. Goodenough’s family owns and operates Goodenough Farms in Columbus, which specializes in hay, straw, mulch hay and mulch straw, according to its Facebook page.

Abbey’s older brother, Joe Goodenough, 26, also grew up on the farm, and now works for it full time. He said Abbey would tag along and help load trailers, move bales and fix equipment from the time she learned to walk. But more importantly, she would pester her father, Doug Goodenough, and her older brothers, Joe and Dylan, with endless questions about farming and agriculture.

“She wanted to learn what we were doing,” Joe said.

By the time Abbey reached Northern Burlington County Regional Middle School, she knew what her family was doing. So much so that she joined the Future Farmers of America Club and excelled at the public speaking competitions on FFA trips.

That’s when she found her other passion.

“She’s extremely comfortable in front of a crowd,” Joe Goodenough said. “She’s never nervous, just enthusiastic.”

“Plus she’s very social,” he added. “That’s another one of her passions. To meet as many people as she can.”

Goodenough has a deep substantive knowledge of an industry that affects 100% of the population. She also has a gregarious nature to the point where she gains energy by talking to people. And she even showcases a natural oratorical charisma when she speaks in front of a crowd.

In the long run, we may look back on her year as the NJ Ag Fair Ambassador as the seed of a long and bountiful political career. Goodenough even sort of has that idea in her head already.

“I definitely want to stay in the ag industry and do some sort of advocacy,” she said.

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Virgin Islands Daily News

http://www.virginislandsdailynews.com/news/stench-keeps-central-closed/article_956541d7-5e8d-5cda-8d5e-7511e61e133b.html

Stench keeps Central closed

By AJ Rao

November 15, 2019

St. Croix Central High School will remain closed today as efforts to identify a gaseous odor on campus continue. The closure marks the fourth straight day of disrupted classes for Central High School students this week.

V.I. Education officials say the odor appears to be coming from outside the campus, but no source has been identified. As of Thursday, agencies began to investigate sewer lines near the school.

Assisting the department is the Department of Planning and Natural Resources; Health Department's Division of Environmental Health; V.I. Territorial Emergency Management Agency; and Waste Management Authority.

DPNR spokesperson Jamal Nielson told The Daily News on Thursday that an investigation is ongoing.

On Thursday, Sen. Alicia Barnes penned a letter to Limetree President and CEO Brian Lever, requesting an update of any refinery start-up activities — i.e. performance tests — or “terminal operational upsets” that may have resulted in emissions.

Barnes, a former DPNR commissioner and now the chairman of the Senate Committee on Government Operations, Consumer Affairs, Energy, Environment and Planning, asked that Lever submit to her committee a certified copy of Limetree Bay's air quality and emission monitoring regulatory reports, as well as “data consistent with the refinery's local and federal air permits starting from Oct. 1.

“Protecting our children and our environment while promoting economic growth is the responsibility of the representatives elected to serve and conduct the people's business,” Barnes wrote.

In 2014, dozens of Central High School students were treated after noxious fumes caused many students to experience vomiting, headaches and dizziness, while a few even fainted. The source of the fumes, which closed the school, was traced to a condemned sewage system.

Students were out of class for two weeks, before classes resumed in double sessions at St. Croix Educational Complex High School.

Classes at Central High School were dismissed early Tuesday after a gaseous odor was detected. Classes resumed Wednesday, but were later dismissed early after the odor was detected again and the school remained closed Thursday.

Central High School report card distribution originally scheduled for today will take place Tuesday from 7:30 a.m. to noon and from 1 to 4 p.m. at the school, according to the Education Department.

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Albany Times-Union

<https://www.timesunion.com/news/article/Albany-County-lawmakers-approve-5-cent-paper-bag-14832453.php#photo-16211667>

Albany County lawmakers approve 5 cent paper bag fee

Measure comes in advance of state's plastic bag ban

By Rick Karlin

November 14, 2019

Albany — Paper or plastic?

On March 1 that question may be moot, at least when it comes to free bags in Albany County. The new statewide ban on single-use plastic bags takes effect on that date. Paper bags will still be available, but Albany County shoppers may have to pay a nickel for each.

The Albany County Legislature on Tuesday passed the 5-cents-per-paper-bag fee, joining a handful of other counties that have done so.

The bill, which passed 22-14, now goes to County Executive Dan McCoy's desk where it will be signed or vetoed.

McCoy spokeswoman Mary Rozak said McCoy now must have a public hearing on the measure, which they will try to do by Thanksgiving. She said McCoy doesn't comment on bills before the hearing process.

The option for a countywide paper bag fee was part of the plastic bag ban passed by the state Legislature last session.

Of each nickel collected, 3 cents would go toward the state Environmental Protection Fund, which pays for a variety of conservation projects. Two cents would go to the county enacting the fee. In Albany, some of the money would be used to get re-usable shopping bags into the hands of consumers.

Recipients of supplemental nutrition assistance, or food stamps, and similar programs would be exempted under the Albany County bill. Restaurants also are exempt.

"Albany County's bag fee local law is a step in the right direction to ensure that the state's plastic bag ban doesn't result in a new problem of overuse of paper bags," County Legislator Joanne Cunningham, sponsor of the measure, said in a prepared statement.

While facing resistance from some retailers, supporters say the law is designed to encourage consumers to embrace reusable shopping bags rather than paper or plastic, both of which add to the waste stream and require lots of natural resources to manufacture.

"It's behavioral economics," said Democratic Assemblywoman Patricia Fahy of Albany.

She added that she'd eventually like to see some of the money go to retailers who have said they pay more than a nickel to supply the paper bags. But eventually, she stressed, the idea is to also discourage using paper and encourage reusable bags.

"We're OK with what Albany County did," said Jim Calvin, president of the state Association of Convenience Stores, which opposed the original plastic bag ban.

Other localities that have passed the paper bag fee include New York City as well as Ulster and Dutchess counties. Suffolk County already had a fee in place.

The move toward banning plastic bags was several years in the making, with environmentalists saying that they clog up waterways, consume fossil fuels and create litter.

Kate Kurera, deputy director of Environmental Advocates, urged McCoy to sign the bill as soon as he can.

"Once again, Albany County is poised to lead on the environment," she said.

The county also bans Styrofoam cups, which like plastic, are frequently made from fossil fuels.

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Queens Chronicle

https://www.qchron.com/editions/queenswide/cuomo-threatens-to-drop-national-grid/article_20770cdf-fc0a-524a-9fe9-01703db67cff.html

Cuomo threatens to drop National Grid

By Michael Shain

November 14, 2019

Gov. Cuomo has issued an ultimatum to National Grid — start hooking up customers to gas lines within two weeks or lose its license to operate in New York City and on Long Island.

"I'm not going to allow New Yorkers to be extorted," Cuomo told NY1 Tuesday.

"They're not the only utility in the world, and a lot of companies would like to have this franchise," he said.

It is the latest chapter in an increasingly harsh conflict between the utility and the governor that started last spring.

In a letter Tuesday to National Grid CEO John Pettigrew and President John Bruckner, Cuomo criticized the company for its "mishandling of the gas supply system" in the southern part of the state.

He gave the utility 14 days to come up with a plan to service to all applicants.

National Grid declared a moratorium on new accounts — which included existing homes and businesses that had temporarily suspended service — last May after New York State environmental authorities refused to approve construction of an expanded pipeline across New York Harbor from New Jersey. Without the pipelines, the company said, it did not have sufficient fuel to supply new customers.

"National Grid is in receipt of the letter from Gov. Cuomo and will review and respond accordingly within the timeframe outlined in the letter," the company said in a prepared statement.

"We continue to work with all parties on these critical natural gas supply issues on behalf of all our customers in downstate New York."

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https://www.qchron.com/editions/queenswide/faa-confirms-folks-have-airtrain-worries/article_ac56f90a-3206-5978-8ad5-9ba26de55536.html

FAA confirms folks have AirTrain worries

Report chronicles feedback from two public meetings last June

By Michael Gannon

November 14, 2019

A recent report from the Federal Aviation Administration has confirmed what interested observers already knew — residents living near LaGuardia Airport have serious concerns about the potential health, environmental and aesthetic impacts that a proposed AirTrain could unleash.

The Port Authority, in an effort to speed up travel time between LaGuardia and both Midtown and Downtown Manhattan, is planning to spend \$2 billion or more on an elevated rail line that would connect with the Long Island Rail Road and the No 7 subway line at Mets/Willets Point.

The preferred route would take the tracks overland just inside the Flushing Promenade, a park situated between the Grand Central Parkway and Flushing Bay.

The 2,430-page report includes names of all residents and government officials who participated and all comments and correspondence received during the public comment period following meetings that were held last June 5 and 6. It also addressed a “people’s hearing” at the World’s Fair Marina that was hosted by groups who are opposed to the AirTrain.

Of approximately 175 comments regarding the impact on local resources, there were multiple comments expressing concern that the elevated structure would impact use of the Promenade and Flushing Bay.

Comments included that removing an existing path would limit pedestrian access; and that it would reduce the overall amount of available park space in an area that already is considered lacking in green space.

Still others believe an airtrain and the construction process could hamper ongoing efforts to clean up Flushing Bay. Some fear it could exacerbate already poor air quality conditions related to the airport, while others pointed out that the potential reduction in the number of cars heading to and from the airport could actually improve air quality.

Among suggested alternatives were extending the N/W subway line, which right now terminates in Astoria.

Others suggested improved bus service, including a dedicated bus lane and bus priority at traffic lights. Proponents of bus service stated it is a less expensive and more flexible alternative. Still others suggested ferry service and in a few cases, leaving all with the status quo. The hearings also included input from residents whose homes have been damaged by construction from the ongoing rebuild of the airport who believe that driving the necessary piles and associated work would cause even more damage.

Days after the report came out, the group A Better Way to LaGuardia released the results of a survey in which it said 74 percent of the respondents said they would use the AirTrain for travel between the airport and Manhattan.

Seventy percent of those who responded said they take cars to LaGuardia. While an opponent of the AirTrain told the Chronicle the survey questions appeared to be leading, Thomas Grech, president of the Queens Chamber of Commerce and co-chairman of A Better Way to LaGuardia, said in a statement from the group that its findings are illustrative.

“These findings make clear what we in Queens have been saying for some time: an AirTrain at LaGuardia Airport will benefit travelers and our environment,” he said. “The high numbers for demand for AirTrain LGA will increase even further as the project comes to fruition.”

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Queens Courier

<https://qns.com/story/2019/11/14/get-the-lead-out-city-cracks-down-on-the-toxic-element-in-schools-housing/>

Get the lead out: City cracks down on the toxic element in schools, housing

By Alex Mitchell

November 14, 2019

Last year, almost 4,000 children were diagnosed with elevated blood lead levels in New York, with much of the exposure happening in public schools and public housing, according to members of the City Council.

The City Council held a special hearing on how the city has handled lead-based issues on Wednesday.

Speaker Corey Johnson said that the city’s ongoing issue with lead exposure — particularly from paint in NYCHA and other public housing and from water fountains at schools — comes from how the problem has been addressed by city agencies like the Departments of Health and Mental Hygiene, Education, and Housing Preservation and Development.

“Our law is only as good as the enforcement,” Johnson said.

South Brooklyn Councilman and Education Chair Mark Treyger agreed, stating that the DOE is flunking at monitoring lead based contaminants in city schools.

“Recent reports suggest these protocols were inadequate,” he said about the city’s preventative approach to lead as a whole. Nearly 18,000 city classrooms have been reported to contain lead in some way, he said.

From a developmental perspective, DOH Commissioner Oxiris Barbot said that symptoms of elevated blood levels in children can even effect language development, along with a varied “debris of symptoms.”

“There is no safe level of lead in the blood,” said Councilman and Health Committee Chair Mark Levine, noting that exposure to lead based paints disproportionately affects low-income families and communities of color.

Meanwhile, AnnMarie Santiago, the HPD deputy commissioner for Enforcement and Neighborhood Services, said that the organization issued about 13,000 violations for peeling lead-based paint and similar contaminants since the council’s last meeting on the subject in 2018.

“We need to come down on [landlords] with a ton of bricks,” Johnson said about those who aren’t complying with the city’s lead prevention protocol.

One of those protocols, more commonly known as LeadFreeNYC, just launched its newest anti-lead campaign earlier this month, according to testimony by Department of Sanitation Commissioner Kathryn Garcia.

The DSNY boss discussed NYCHA’s \$101 million initiative to test over 134,000 apartments for lead-based paints by the end of 2020 along with similar ones that target lead-based, dangerous consumer products — another leading cause of lead contamination in children.

She continued to note a near 10 percent drop in city children reported with elevated blood lead levels, though that minor victory didn’t win over the speaker, who sharply criticized testimonies from the agencies at hand.

“There are thousands of children being poisoned in New York City,” he nearly shouted, expressing his lack of confidence in the agencies’ testimonies that didn’t identify the exact number of children that suffered from lead exposure. “Our work is far from done.”

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Bridgewater Courier News

<https://www.mycentraljersey.com/story/news/local/courts/2019/11/14/njdep-says-alsol-polluted-farrington-lake-milltown-nj-oil/4179240002/>

NJDEP says company polluted Farrington Lake with oil, municipal court erred in dismissing case

By Nick Muscavage

The state Department of Environmental Protection filed a complaint against a company it says was behind an oil leak in Farrington Lake, but a borough municipal court dismissed the charges.

The DEP filed a complaint against Alsol in Milltown Municipal Court that in October 2016, Alsol failed to remediate the property located at the corner of Ford Avenue and Main Street in violation of state's Spill Act, which was created to prevent entities from discharging hazardous substances and to hold any person liable who does.

In Milltown Municipal Court, Alsol moved to dismiss the summons for lack of subject matter jurisdiction, according to Appellate Court documents. Alsol argued that municipal courts do not have the authority to adjudicate the merits of an enforcement action brought by the DEP involving alleged violations of the Spill Act.

The municipal court judge sided with Alsol and dismissed the DEP's complaint. The DEP appealed the ruling, bringing the case to state Superior Court.

In Superior Court, the DEP claimed that Alsol contracted a company named COBRA to demolish section of the Milltown property, which included at least three electrical transformers.

The DEP testified that on Oct. 4, 2016, Middlesex County Hazmat received notification that an "unknown amount of oil had spilled into Farrington Lake," according to court documents.

Middlesex County Hazmat's investigation revealed the source of the spill was three electrical transformers, each containing about 380 gallons of oil, which the Hazmat team found overturned near a storm drain at the rear of the property, according to court documents.

COBRA improperly demolished the transformers, which resulted in a surface spill as well as a spill into the storm drain, the DEP claimed. Middlesex County Hazmat performed a field test on a sample of the oil, which showed the presence of PCBs, or polychlorinated biphenyl, which are man-made chemicals previously used in manufacturing that are now known to have adverse affects on human health.

The discharge into the storm drain is "particularly significant" because the storm drain terminates in an outfall pipe, which discharges into Mill Pond and Lawrence Brook, downstream of Farrington Lake, according to the DEP.

After the initial spill, a constant stream of oil was discharging into Lawrence Brook, the DEP claimed. So much so, a DEP Fish and Wildlife officer issued an emergency fishing closure for Lawrence Brook between Riva Avenue and Ryders Lane.

The Superior Court judge opposed the municipal court and found that municipal courts do in fact have jurisdiction to impose civil penalties in an enforcement action filed by the DEP over violations of the Spill Act.

The Appellate Court reviewed the language of the Spill Act and found that "the Superior Court and the municipal courts shall have jurisdiction to impose a civil penalty for a violation" of the law.

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NorthJersey.com

<https://www.northjersey.com/story/news/bergen/hillsdale/2019/11/14/tetrachloroethylene-chemical-polluted-former-hillsdale-nj-dry-cleaner/2575521001/>

Hillsdale building razed due to toxic PCE chemicals left by former dry cleaning business

By Shaylah Brown

November 14, 2019

A former dry cleaning business that left contaminated soil and groundwater when it shut in 1996 has been razed, and the tainted earth will soon be removed and replaced with clean fill.

The building at 137 Broadway was for years home to Alexander Cleaners. The state Department of Environmental Protection determined the site was polluted with the chemical tetrachloroethylene, also known as perchloroethylene or PCE.

With the building gone, the DEP has better access to contaminated areas. After the excavation of soil, the 0.2-acre property will be backfilled with clean fill and then paved with asphalt. The DEP said last year the soil would be removed to a depth of at least 28 feet.

Groundwater monitoring wells are being installed at Bank of America, next door to the former dry cleaners, and Veterans Park, adding to monitoring wells already in place. Last year, the DEP said the chemicals had spread to nearby properties, including the Bank of America, but at low levels that did not pose a threat to public health.

The agency said it intends to place a lien on the property to cover the \$1.9 million cost associated with the cleanup. It anticipates remediation will take at least five years. A date for soil excavation has not been determined yet.

But Fred Rubel, a member of the Hillsdale Environmental Commission, says that is not good enough.

"They have to wait for money that becomes available from time to time to do the various phases of the work. We just don't have a high degree of assurance that the work in removing the contamination will occur fairly quickly to avoid what would likely be a spread of contamination beyond what it is now," Rubel said.

Tetrachloroethylene — a liquid widely used for dry-cleaning fabrics and metal de-greasing — made its way into the ground beneath the building, possibly due to improper handling or disposal of the chemical, according to the DEP. The chemical is still in use by dry cleaners in New Jersey. It is considered a potential carcinogen and is regulated as a hazardous substance.

The excavation will be carried out using a large diameter auger, and the contaminated soil will be disposed of off-site.

"Our main concern has been that there is not too extensive a delay between the time the building has been removed and the time they remove the area of contamination, which as far as we know is pretty localized," said Rubel.

He added, "if the ground is left open to rain and snowmelt that sort of thing the plumes of contamination that have pretty much been kept in place under the building could begin to migrate."

Monitoring by the DEP last year indicated the contaminants were focused under the building, but that the affected groundwater was moving in the direction of the Bank of America building. Air samples from inside the bank were tested and showed no signs of the contaminants.

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Caribbean Business

<https://caribbeanbusiness.com/when-will-renewables-flourish-in-puerto-rico/>

When Will Renewables Flourish in Puerto Rico?

By José Alvarado Vega

November 14, 2019

Puerto Rico could be on the verge of a renewable energy boom that could lead the island to kick the fossil-fuel habit in the next three decades while consolidating an industry that could help power up the troubled local economy. However, foot-dragging by the public utility monopolizing the production and sale of electricity on the island could shoot down these aspirations, according to renewable energy-industry executives and professionals.

With the enactment earlier this year of the Puerto Rico Energy Public Policy Act of 2019, or Act 17, the legal framework was set up to enable the local renewable energy industry—consisting of private companies building mostly solar- and wind-powered generation systems for homes and businesses—to compete on a level playing field with the Puerto Rico Electric Power Authority (Prepa)—the public utility that monopolizes production and sale of electricity on the island.

After years of uneven growth, the renewable energy industry has gained a renewed stature with the installation of battery-backed systems after Hurricane Maria's devastating blow to the island's electric grid two years ago. The disaster resulted in a months-long blackout, which studies say could have led to between 3,000 and 4,000 preventable deaths. Many hospital patients and senior citizens died after vital electrically operated medical equipment ceased to function.

About 4 percent of the electricity that is being consumed in Puerto Rico is generated by renewable energy, which includes solar, wind, landfill gas and hydroelectric power sources, according to Prepa. Solar photovoltaic-generated power is the dominant renewable energy source on the island, producing two-thirds of renewable-sourced electricity consumed locally. Prepa still generates most of its electricity using fossil fuels such as petroleum, natural gas and coal.

Act 17, the result of bipartisan legislation submitted jointly by New Progressive Party Sen. Larry Seilhamer and Popular Democratic Party Sen. Eduardo Bhatia, established a timetable that requires all retail energy providers in Puerto Rico, including Prepa, to increase their share of renewable energy-produced electricity sold to customers to 100 percent by 2050. In-between goals include increasing this share to 20 percent by 2022, 40 percent by 2025, and 60 percent by 2040.

Renewable energy targets

The estimated share of renewables in global electricity generation was 26 percent by the end of 2018, according to the Renewables 2019 Global Status Report by REN21, an international renewables policy organization, which

states that renewable energy targets are in place in nearly all countries, with several jurisdictions making existing goals more ambitious in 2018.

“Getting to 40 percent of renewables by 2025 is very ambitious. It would be the most rapid move away from fossil fuels and to renewables that has ever occurred worldwide,” PJ Wilson, president of the Solar & Energy Storage Association of Puerto Rico (SESA), told Caribbean Business during a roundtable with industry professionals. He noted that a previous renewable portfolio-standard law from 2010 required 12 percent of the island’s power come from renewable energy by 2015. “The rate of installation [for] solar would have to grow at least 50 percent a year to meet these targets.”

As of June 30, there was about 310 megawatts (MW) of installed solar-energy capacity interconnected to the island’s electricity grid—an increase of about 38 percent over the 225 MWs installed in 2017, according to Prepa’s proposed 2019 Integrated Resource Plan (IRP). Of the 310 MWs of solar-power capacity currently in place, most—56 percent or 173 MWs—consists of so-called distributed generation, or production by small-scale systems (25 MWs or less) installed in homes, businesses and government agencies, and which are included in Prepa’s net-metering program. The rest of the capacity, about 137 MWs, consists of large-scale solar-energy farms that have power purchase and operating agreements (PPOAs) with Prepa.

Net-metering customers grow

In Prepa’s net-metering program, established in 2007, utility customers who install renewable energy systems for their homes and businesses that produce more electricity than what they consume may receive credits that cut their monthly Prepa bills. The number of net-metering customers almost doubled between fiscal years 2017 and 2019, according to Prepa, increasing from 8,500 to 14,800.

While, as a result of the 2010 law, some 63 large utility-scale solar and wind systems were legally committed to be developed to provide power to Prepa, only 14 have been built or are currently under development, Wilson said, noting the “utter failure” of relying on the public utility to develop more renewables. The Prepa 2019 IRP states that the utility had PPOAs with 11 private renewable energy-powered generators with a total of about 273 MWs of capacity—of which 52 MWs were still in the final testing stage—as of December 2018.

“Prepa won’t do it, so it depends on the industry to continue building solar systems on people’s houses,” Wilson said, noting that the Puerto Rico Energy Bureau [PREB]—charged with regulating the sector—has the “crucial role” of “crafting very strong, easily enforceable rules.”

PREB is revising Prepa’s IRP, which will include actions the utility must take to facilitate interconnection of privately generated power, including renewables, to the island’s power grid.

Advanced legislation

Jéramfel Lozada Ramírez, president of the Puerto Rico Association of Renewable Energy Consultants & Contractors (Aconer by its Spanish acronym), called Act 17 an “advanced and robust piece of legislation,” which he said many other U.S. jurisdictions lack and is the “model to follow.”

To encourage the building of a renewable energy system, the law calls for Prepa and PREB to set up a market for renewable energy certificates, or RECs, which can be sold as an energy commodity. This incentive would bring down the initial costs of such systems.

“If we take the right steps to implement it, it would be formidable,” said Lozada Ramírez, who presides the organization that has 100 member-companies and 200 professionals from the industry. The trade group started out with five member-companies when it was established in 2007.

“The renewable energy industry will move toward helping achieve the portfolio goals to the extent that Prepa allows us to,” added the electrical engineer, owner of a renewable system construction & consulting company. “We might want to install all the renewable energy we can, [but] we have physical limitations in the transmission and distribution system. This will require upgrades.”

Limited renewable energy-grid capacity

Lozada Ramírez said that a 2014 Prepa-commissioned Siemens report concluded that the maximum amount of renewable energy that could be accepted by the island's energy grid—or hosting capacity—without it being compromised was about 600 MWs. In fact, a more recent Prepa-commissioned study by Siemens for IRP plans to rebuild the utility grid to resiliency, including the establishment of mini-grids, states that under such a scenario penetration of renewables in the grid could reach 35 percent.

José A. Guzmán Jiménez, past president of Aconer, said Prepa was supposed to draw up the rules for Act 17 implementation 180 days after the law was signed in April, but it has still not done so yet.

“Prepa has not been our ally in this,” he said. “I don’t like to demonize Prepa because it has excellent employees, but there is a reality. We continue having obstacles placed by Prepa, and communication remains difficult. All that we’ve achieved, unfortunately, has been through the Legislature, and technical issues have been resolved through new laws. That is a slow process.”

Industry professionals said Act 17 amendments to the Net Metering Act of 2007 (Act 114) addressed many of the problems with Prepa that had slowed the average renewable system installation for months. The amendments allow such systems of 25-kilowatts capacity or less to be installed and interconnected to the grid without a previous inspection by Prepa engineers, although they can do so afterward. Processing of net-metering applications cannot exceed 90 days or otherwise they will be automatically approved, according to new regulations, which eased the right-of-way restrictions involving Prepa lines that had held up installations.

Moreover, renewable energy groups successfully lobbied lawmakers to eliminate the requirement that a manual shutoff switch for solar systems be placed outside the home. They said the safety concern that had justified this rule had been addressed by new technology that keeps renewable-produced energy from seeping back into the system.

“We could have worked on this directly with Prepa and saved time and effort,” Guzmán Jiménez said. “These are the types of things the industry has had to fight and laws made, which is ridiculous.”

Carlos Parés, director of legal & public policy for Máximo Solar Industries and a SESA board member, said renewable energy technology usually advances faster than local laws and regulations. He said certification of such products by the commonwealth Energy Public Policy Office, now under the Economic Development & Commerce Department, can take months. This office also certifies renewable energy-system installers and other professionals. He said this office must consult other agencies such as the Office of Budget & Management and PREB before issuing final certifications.

“There is the multiplicity of agencies and offices that govern one issue, and they have distinct opinions about the same product,” he said. “That creates inefficiency.”

Parés said Act 17’s easing of restrictions have cut installment times of systems of less than 25 KWs, which are usually built for homes, to an average of two months, down from the previous nine months.

“That also happens [in the various] Prepa regions: Some require things that others don’t,” Guzmán Jiménez said. “They have tried to make this uniform by setting up an internet portal to file net-metering applications.”

Wilson said PREB is developing a new digitalized system to streamline net-metering applications with an online portal.

Bureaucratic short circuit

In fact, Lozada Ramírez said that despite its merits, Act 17’s energy-portfolio goals for renewables are “unrealistic” given that local authorities continue to place more obstacles in the industry’s way. He said the industry was grappling with a new requirement, the so-called rapid shutdown mechanism, which is included in the new construction and electric codes adopted last year and aim to protect first responders such as fire

fighters, in case of a fire. The industry is asking for a two-year waiver to catch up and adopt a technology he said is unavailable locally.

Prepa rejected the waiver, attributing this to Puerto Rico Fire Department concerns, he said. The department is also requiring roofs to have a clear area in which fire fighters can make a hole, despite the fact that most homes in Puerto Rico are made of concrete.

“This is increasing the costs of the installations,” he said. “The technology...is not mature enough; it needs more R&D. This is holding up many renewable energy projects. Many are commercial projects under construction and these costs were not budgeted. Residential systems are also being affected, and will require additional equipment.”

The first local survey of the solar-photovoltaic industry carried out by the nonprofit Solar Foundation last year found 90 percent of solar employers indicated that interconnection delays were a factor that made growing a business more difficult. Over three-quarters of respondents also pointed to permitting delays. The survey said there were 2,000 solar jobs on the island.

Moreover, industry professionals expressed concern over what could be the biggest blow to renewables on the island: The proposed fee on electricity produced by net-metering clients, which is scheduled to go into effect next year as part of Prepa’s restructuring support agreement (RSA) with bondholders.

Aconer and SESA have filed challenges to the RSA before U.S. District Judge Laura Taylor Swain, who is overseeing the commonwealth’s debt-restructuring process under the Puerto Rico Oversight, Management & Economic Stability Act (Promesa).

“The Prepa RSA would set back everything,” Lozada Ramírez said, noting that much of the renewable energy capacity being installed on the island is being done through a combination of funding from nonprofits and federal workforce programs. “You invested in your system, and Prepa gave you nothing, and now they want to charge you at least 2 cents for each kilowatt [-hour] of energy you produce, so they can pay their debt. This agreement is worse than the RSA approved under Act 4, when Lisa Donahue was at Prepa. You can forget about those projections if this is approved.”

Wilson said the RSA-mandated fee would violate Act 17’s ban on direct or indirect fees on renewable energy consumption. He said the proposed 2.7 cents per kilowatt-hour fee could increase system costs by an initial 10 percent to 25 percent. A \$24,000 system with batteries could cost an extra \$6,000 in 20 years, he said.

“I think Puerto Rico is very clear where it wants to go: 100 percent renewable as soon as possible,” he said. “The \$9 billion in Prepa bondholders have a lot of power. Already 90 percent of them have signed off on the agreement. But the bondholders don’t realize this fee will make it less likely they will get paid because it will slow down the solar grid. Prepa is not bankrupt because people are going into renewables, but because of mismanagement and corruption.”

Requests for comment were sent to Puerto Rico Energy Bureau President Edison Avilés-Deliz and Isabel Medina, secretary of the Energy Public Policy Office, as well as Prepa.

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Albany Times-Union

<https://www.timesunion.com/news/article/Gillibrand-wants-Clean-Water-Act-to-cover-PFAS-14829516.php>

Gillibrand wants Clean Water Act to cover PFAS

Citing Hoosick Falls problems, she also wants compounds on toxic registry

By Rick Karlin

November 12, 2019

U.S. Sen. Kirsten Gillibrand is preparing to offer legislation that would place PFAS under control of the federal Clean Water Act.

“Any company that discharges PFAS should get a Clean Water Act permit,” Gillibrand said in a telephone conference Tuesday about the pending bill.

PFAS, or perfluorinated alkylated substances, include compounds such as PFOA (perfluorooctanoic acid). PFOA contamination led to a water crisis in Hoosick Falls three years ago that authorities are still working to clean up.

The substances are associated with thyroid illnesses as well as cancers and immune disorders. PFOA was found in Hoosick Falls drinking water due to nearby manufacturing plants that have long operated there. PFOA was used to make non-stick materials such as Teflon and the Hoosick Falls area has even been described as “Teflon Valley.”

Gillibrand’s proposal comes as the Trump administration’s Environmental Protection Agency is deciding, by the year’s end, whether to propose regulatory standards for how much PFAS should be allowed in drinking water.

The EPA has been criticized for at first hesitating to develop regulations and then for allowing what environmentalists say are levels that may be too high for safety.

“This is our response to what President Trump is doing,” said Gillibrand, a Brunswick Democrat.

She added that she was seeking both Democratic and Republican support on Capitol Hill. She said she already has bipartisan backing for a similar measure to get funding to help clean up existing PFAS on military bases.

While the PFOA used in Hoosick Falls has been phased out, other variety of PFAS are being developed and are widely in use. Millions of Americans are believed to be drinking water that contains at least some form of PFAS. The compounds are very stable and they can remain in a person’s bloodstream for a very long time, which has proven worrisome.

Gillibrand’s new bill would require the EPA to review the sources of PFAS in waterways as well as set limits on the amounts that can be released.

She is also backing bipartisan legislation that would require the EPA to set up a process for adding PFAS to its Toxic Release Inventory, which is a central database showing which chemicals are being released and where.

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NATIONAL

Career official draws heat for defending science proposal

[Kelsey Brugger](#), E&E News reporter

Published: Thursday, November 14, 2019



Jennifer Orme-Zavaleta, EPA's principal deputy assistant administrator for science, during a hearing this morning. Francis Chung/E&E News

House Democrats drew parallels between yesterday's impeachment hearing and the Trump administration's plan to limit scientific research that underpins EPA rulemaking.

In both cases, Illinois Democratic Rep. Sean Casten charged that hyperpoliticization has muddled American government.

"When we politicize the Constitution, we put our republic at jeopardy," Casten said. "When we politicize science, we put our species in jeopardy."

And Democrats were puzzled as to why an EPA career official, Jennifer Orme-Zavaleta, who has served at the agency for 38 years and now heads the Office of Research and Development, was the one representing the agency before the House Science, Space and Technology Committee.

"EPA is committed to transparency and giving public access to data and research," she said during the hearing. "And we have made great strides on this."

An abundance of critics in the scientific and public health community have railed against the proposal and a supplemental under review by the White House.

They call the administration's work a problem in search of a solution. They fear the plan, if finalized, will upend the country's regulatory framework.

Earlier this week, The New York Times, among other outlets, reported a leaked copy of the draft supplemental, which the agency dismissed as inaccurate.

Orme-Zavaleta stressed the rulemaking process was still underway and assured lawmakers the agency was considering the nearly 600,000 public comments received on the initial proposal. Many of those, she said, raised "complex issues."

Orme-Zavaleta declined to answer many pointed questions from Democratic lawmakers, some of whom implored her to break from the company line.

"You cannot be happy that you are here," Casten said. "You cannot be happy that your leadership has put you in a position to defend an anti-scientific history."

He noted that the Union of Concerned Scientists revealed that the plan to limit science in rulemaking originated from the tobacco industry in the 1990s.

'Too gutless to appear'

Republicans used the opportunity to attack the Times' "reckless reporting." Rep. Brian Babin (R-Texas) complained that much of the hearing discussion had been overshadowed by the article.

"I believed this is a missed opportunity to have a more holistic opportunity on a broader topic," said committee ranking member Frank Lucas (R-Okla.).

Orme-Zavaleta, who started at EPA as a graduate student at Miami University of Ohio, also serves as the agency's science adviser. Her expertise is in chemical risk assessment and water quality research and regulation, according to an online biography.

"One cannot help but feel sympathy for the career @EPA scientist, Dr. Jennifer Orme-Zavaleta, who has been put in an impossible situation by cynical Trump politicians," tweeted John Walke, clean air advocate for the Natural Resources Defense Council.

"The political appointees are too gutless to appear before Congress," he said, "so they have a sacrificial career witness."

When asked, Orme-Zavaleta said she was not involved in writing the initial proposal but noted "we are assuring career staff are engaged."

The Washington Post last year published obtained EPA emails stating that top career staff members were not involved in writing the initial document.

"We already knew that scientists were completely excluded from its development, so it was good to get that out in the open," noted Michael Halpern, an advocate with the Union for Concerned Scientists.

EPA did not respond to a question about why Administrator Andrew Wheeler did not testify. Wheeler went before the committee in September to defend the concept of the plan ([Greenwire](#), Sept. 19).

'Completely false'

Democrats also took issue with the fact that the proposal would allow the EPA chief — a former coal lobbyist — to grant exceptions to the rule limiting scientific information.

At the start of the hearing, EPA's press shop took to Twitter to respond to the accusation: "To say politically appointed agency administrator's would have wide-ranging discretion over which studies to accept/reject is completely false. The proposal requires transparency & gives the discretion to use studies when information isn't available. This should be the exception."

Another key issue Orme-Zavaleta rebutted was whether the proposal would affect existing regulations, a point that remains disputed. She repeatedly said the proposed rule would not affect current rules or regulations.

The leaked draft supplemental stated the rule "would apply to all data and models regardless of when they were generated." Orme-Zavaleta maintained that the leaked document was not the one sent to the White House last Friday for review.

Still, Casten argued that it is "within EPA's authority to review existing updates at its own discretion." Old rules could be rewritten at any time.

Orme-Zavaleta did not rebut Casten's point but simply repeated that the rule would apply prospectively. "A lot of it is driven by what new information becomes available," she added.

With that, Casten pleaded with her: "Look, this is painful. And we are sitting at a moment where none of this assault on science happens if people in your shoes stand up. If and when you stand up, we've got your back. But please stand up."

The hearing also included a second panel of scientists and public health experts. All of them agreed the rule as written should not move ahead.

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Ex-government health chief joins warnings about EPA proposal

By ELLEN KNICKMEYER yesterday



FILE - In this Tuesday, Sept. 29, 2009, file photo, Dr. Linda Birnbaum, then-director of the National Institute of Environmental Health Sciences, appears on Capitol Hill in Washington, before a hearing. Birnbaum joined health experts on Wednesday, Nov. 13, 2019, in expressing alarm as the Trump administration moves forward with a proposal that scientists say would upend how the U.S. regulates threats to public health. (AP Photo/Harry Hamburg, File)

WASHINGTON (AP) — A former top government environmental health official joined health experts on Wednesday in expressing alarm as the Trump administration moves forward with a proposal that scientists say would upend how the U.S. regulates threats to public health.

“It will practically lead to the elimination of science from decision-making,” said Linda Birnbaum, who retired last month as director of the National Institute of Environmental Health Sciences after serving under both Republican and Democratic administrations.

In an appearance before the House Committee on Science, Space and Technology, Birnbaum said the proposal could be used to roll back fundamental protections from air pollution and other toxins. The “effects here could affect an entire generation,” she said.

The Environmental Protection Agency’s proposed regulation seeks public disclosure of the data underlying studies used by agency officials in deciding how to regulate contaminants and toxins, from car exhaust to coal waste to pesticides. Opponents fear that could include seeking to release identifying information for patients and study participants in violation of confidentiality requirements, leading important public health studies and other research on people to be taken out of consideration instead.

The administration says the proposal would increase transparency in government regulation.

Jennifer Orme-Zavaleta, an EPA principal deputy assistant administrator, told the lawmakers that the agency was working “to ensure the public has access to information so they can make decisions to protect their health and environment.”

But opponents fear the measure will be used to toss out findings of decades of research on humans — and of future studies yet to come — that are a foundation of environmental and public health regulation. With weaker evidence regarding risks to human, the result could be weaker regulation of toxins, opponents said.

When the EPA first raised the proposal last year, university heads, public health officials, researchers, health workers, environmental advocates and others lined up at the agency's public hearings to object. The agency received nearly 600,000 public comments on the change, the majority urging against it.

Debate on the proposal revived this month when the EPA sent a draft supplement to the measure to the White House for government review. That made clear that the administration was moving ahead on the measure despite the unusually strong torrent of opposition from scientists and health practitioners.

At Wednesday's hearing before a committee of the Democratic-controlled House, some Republicans also indicated concerns about the measure, which follows past, failed efforts by conservative lawmakers to get similar legislation through Congress.

"This is about attacking the EPA under the current administration — not about improving transparency and scientific integrity," said Rep. Frank Lucas of Oklahoma, the committee's senior Republican member.

Lucas called the EPA proposal "well-intended," but said broader discussion was needed about "the best way to improve reproducibility and transparency."

Orme-Zavaleta, a career EPA employee, said a draft of the rule obtained by the news media this week was not the final version.

Under questioning from Democratic lawmakers, Orme-Zavaleta acknowledged that while the proposal was not intended to be retroactive to existing rules, it could apply to past health studies.

Democratic lawmakers argued the change could also be used to throw out findings of health studies and rewrite regulations whenever an existing rule comes up for review.

"The true purpose is to undermine the decades of sound science on which the EPA relies to protect public health," so that "political agendas are given more weight than science," said Rep. Paul Tonko, D-NY. It "will endanger the safety and health of millions of Americans for many generations to come."

Rep. Bill Foster, D-Ill., noted the early draft rule would allow the EPA administrator to make exceptions to the data disclosure requirements.

"Can you understand why we might not be comfortable having the final call being made by a coal lobbyist?" Foster asked, referring to the current EPA administrator, Andrew Wheeler.

Birnbaum, one of five scientists and health experts testifying Wednesday in addition to the EPA official, said eliminating studies and research on humans because of the confidentiality of identifying information would leave regulators more dependent on animal studies, which are less accurate for people.

However, Wheeler announced separately in September that the agency intended to scale down and ultimately eliminate testing of chemicals on animals. Animal rights advocates welcomed the move, but health officials said it eliminated an essential safeguard for human health.

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EPA Defends 'Secret Science' Rule to House Democrats

Nov. 13, 2019, 1:47 PM



Rep. Frank Lucas (R-Okla.)

Photographer: Andrew Harrer/Bloomberg via Getty Images

- EPA official defers questions about authority for ‘secret science’ rule
- Says rule won’t be retroactive

An EPA official defended the agency’s proposed “secret science” rule, but declined to answer questions about the basis for the rule, which has drawn criticism from environmental groups and other agency watchers.

Jennifer Orme-Zavaleta, principal deputy assistant administrator for science at the Environmental Protection Agency, told Democrats on the House Science, Space, and Technology Committee that she had to defer questions about statutory authority to other agency officials.

Orme-Zavaleta, a career employee with a doctorate in wildlife science and public health, was asked about a report that the EPA based its authority for the rule on a 1966 statute.

The EPA’s April 2018 proposal, also known as the “secret science” rule, would bar the EPA from using scientific research that isn’t or can’t be made public, marking a change from the EPA’s decades-old approach to using science in rulemaking. Under a proposed tiered approach, the EPA would use different strategies for handling individuals’ data based on varying disclosure risks.

Democrats grilled her about a leaked [draft](#) of the EPA’s Strengthening Transparency in Regulatory Science proposal ([RIN:2080-AA14](#)), in which the agency said its authority for issuing the rule stems from the Federal Housekeeping Statute, which authorizes heads of federal agencies to issue regulations on their internal governance and operations.

Criticism of Basis for Science Rule

Critics have said the proposal is a bid to sideline the science that the EPA uses in regulations, because the agency wouldn’t be able to rely on epidemiological studies that often rely on private medical information.

In the leaked draft, first reported by the New York Times, the EPA referenced language from the housekeeping statute that says the head of an executive department “may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.”

Several Democrats said they didn’t understand how that language gives the EPA the authority to issue the proposal.

Orme-Zavaleta said those questions are beyond her area of expertise, and offered to provide fuller answers later.

She also said that draft isn't the most current version of the proposal, which was submitted to the Office of Management and Budget for review on Nov. 8. She neither confirmed nor denied that the language about the housekeeping statute is included in the latest version.

Rep. Frank Lucas (R-Okla.), the panel's ranking member, said the hearing was "about attacking the EPA under the current administration," and questioned why Congress was scrutinizing the proposal when it's still being finalized.

No Retroactivity, EPA Says

The EPA is working on a supplemental proposal, to be appended to the original "secret science" proposal and set to be released in early 2020, in response to some 600,000 comments the agency has received about the plan, Orme-Zavaleta said.

She said the rule wouldn't be applied retroactively.

But Rep. Sean Casten (D-Ill.), said that many EPA regulations must be reviewed periodically, and the secret science rule could be used to pare back protections in the future.

"Look, this is painful," Casten said. "We are sitting at a moment when none of this assault on science happens if people in your shoes stand up. If you stand up, we've got your back. But please stand up."

Orme-Zavaleta told Rep. Conor Lamb (D-Pa.) that she wasn't aware of whether the EPA has conducted a cost-benefit study of the proposal.

Rep. Suzanne Bonamici (D-Ore.) said she would send a letter to the National Academy of Sciences, asking the organization to work with the EPA in reviewing the proposed rule.

The EPA sent several tweets as the hearing was taking place to support the proposal.

"To say politically appointed agency administrator's would have wide-ranging discretion over which studies to accept/reject is completely false," the agency said in one [tweet](#).

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Scientists join Democrats in panning EPA's 'secret science' rule

BY [REBECCA BEITSCH](#) - 11/13/19 03:07 PM EST



© Greg Nash

Democrats tore into an Environmental Protection Agency (EPA) plan Wednesday that would bar the agency from relying on scientific studies that don't release their underlying data — a controversial proposal resurfacing this week with reports that the agency may expand the reach of the rule.

The proposal — which the agency said will not be finalized until next year — was pushed by former Administrator Scott Pruitt as an attempt to battle “secret science.” But it has proven to be one of the EPA's most widely panned measures, garnering more than 600,000 comments, many of which argue the effort won't promote transparency but will instead undercut the agency's ability to rely on the best available science.

Many of the nation's top medical, science and public health groups were among those who have opposed the rule.

“These efforts pay cheap lip service to improving scientific integrity and transparency, but their true purpose is to undermine the decades of sound science on which EPA relies to protect our air, water and the health and safety of the American people,” Rep. Paul Tonko (D-N.Y.) said at House Science, Space and Technology Committee hearing, noting that Congress has repeatedly chosen not to forward similar proposals when they were introduced by lawmakers in years past.

“Any form of this rule essentially guarantees that political agendas are given more weight than science in EPA rule-making.”

EPA sent a longtime career employee, Jennifer Orme-Zavaleta, who heads the Office of Research and Development, to take questions from lawmakers.

She told Tonko that EPA is still considering the comments, and while many supported the concept of transparency, “where they differed were in the way in which we approached that.”

But while Orme-Zavaleta answered questions inside, the agency was busy defending the proposal on Twitter.

“Science transparency does not weaken science, quite the contrary. By requiring transparency, scientists will be required to publish hypothesis and experimental data for other scientists to review and discuss, requiring the science to withstand skepticism and peer review,” the agency wrote.

Numerous lawmakers, as well as witnesses from scientific and medical groups in a second panel, compared the rule to tactics used by the tobacco industry, which focused not on the public relations nightmare of questioning

the health risks of smoking, but instead zeroed in on undercutting the scientific methods used to draw that conclusion.

Democratic lawmakers seized on whether career staff were consulted in the development of the rule and how it might impact regulations going forward.

Rep Bill Foster (D-Ill.) asked if the proposal was crafted in a fashion that was bottom-up, “where the scientific staff, the career people in the EPA have come up with the first drafts,” or top-down, “where the political appointees consult with whoever they consult with and come up with a draft and then you’re at best asked to comment?”

Orme-Zavaleta said she was not involved in drafting the rule, saying it was crafted “outside of me.”

But Foster, noting that everyone above Orme-Zavaleta was a political appointee, said he was concerned by that.

“Congress has considered and rejected a lot of these ‘secret science’ proposals for good reason so you can understand why we might not be comfortable with having the final call on these made by a coal lobbyist,” Foster said in reference to EPA Administrator Andrew Wheeler.

Republicans repeatedly grumbled that the committee was premature, held before the rule had been finalized, while bashing a New York Times story that reported on a draft supplement to the rule that the agency has said is old and has not been forwarded.

“I’m glad the EPA is working toward transparency, and sad it’s been maligned by the media,” said Rep. Bill Posey (R-Fla.).

Posey accused the agency in the past of forwarding a political agenda using “secret science” at the hands of “unelected, unaccountable, unrecalable bureaucrats.”

But Democrats said the proposal, both what has already been made public by the EPA as well as the draft reported on by the Times, would significantly restrict the agency’s ability to consider some landmark studies and could impact old regulations that rely on studies that kept participants’ information private in order to protect sensitive health data.

“Currently scientists don’t share that data for ethical and legal reasons,” said Rep. Lizzie Fletcher (D-Texas), adding that the EPA should reconsider a rule that could have “a chilling effect on research overall.”

Orme-Zavaleta stressed that the rule would not be applied retroactively and that the EPA administrator could always make an exception for any study deemed too important to exclude.

She also said the EPA’s Science Advisory Board was looking into how the agency should deal with sensitive personally identifiable information and confidential business information.

But many critics say the board was not given enough time to review the proposal overall or help craft a fix for sensitive information, hoping to fast-track those recommendations and turn them over by the end of the year — just before EPA is set to release its science transparency rule.

Rep. Suzanne Bonamici (D-Ore.) has asked the EPA to hold off on finalizing a rule until the National Academy of Sciences can conduct a review. She sent a letter to the group Wednesday asking for their analysis.

In a second panel filled with scientific and medical experts, each was asked whether they supported the EPA’s proposal.

Even the GOP-invited witness, Center for Open Science Executive Director Brian Nosek, said he did not.

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IN DEPTH U.S. POLICY

‘Secret science’ plan is back, and critics say it’s worse

David Malakoff

Science 15 Nov 2019:

Vol. 366, Issue 6467, pp. 783-784

DOI: 10.1126/science.366.6467.783

Critics are blasting a revised Trump administration plan to give the U.S. Environmental Protection Agency (EPA) broad power to ignore research results when setting public health rules if officials decide the underlying data are not adequately accessible to the public.

The draft document, a version of which was leaked to The New York Times this week, supplements a 2018 data transparency proposal from EPA that was harshly criticized by scientific, environmental, and patient groups (Science, 4 May 2018, p. [472](#)), prompting the agency to say it would issue a revision. Although EPA said in a 12 November statement that the leaked document is not the final version it sent earlier this month to the White House for review, the agency did not dispute its core substance.

The proposed supplement “is even worse than we thought it would be,” says Gretchen Goldman of the Union of Concerned Scientists in Washington, D.C. “We didn’t think [the transparency proposal] could get any worse, but we were wrong.”

One issue, critics say, is that EPA wants to greatly broaden the policy’s scope, applying it to all studies and data used by the agency and not just the “dose response” studies mentioned in the initial version. The draft also asks the public to comment on whether, in some cases, the transparency rule should be applied retroactively to past studies used to support regulation, potentially opening the door to challenges of existing rules.

EPA officials have argued that the data transparency policy is needed to ensure that the agency uses only the best “pivotal regulatory science” that can be “independently validated” when crafting “significant” rules that are expected to impose major economic costs. The leaked proposal says EPA regulators should have “the right to place less weight” on certain studies, “to the point of entirely disregarding them,” if the underlying data are “not made available in full to EPA.”

Critics say that language is primarily designed to weaken regulation by preventing EPA from considering epidemiological and other studies in which researchers have promised to protect the privacy of human subjects. Such confidential health information, which is typically not released to the public, has played a major role in shaping stricter EPA limits on air pollutants. For example, the iconic 1993 Six Cities Study, which linked particulate air pollution to human death and disease, helped spur new EPA soot controls. But some industry groups have long objected to EPA’s use of such “secret science.”

EPA already has ways to assess the quality of studies and decide which it should consider when writing new rules, notes Chris Frey, a former scientific adviser to the agency and an air quality researcher at North Carolina State University in Raleigh. “But what those methods don’t do is say: ‘Just because there isn’t full public disclosure of the data, we’re going to wipe out and ignore that study, regardless of its quality.’ Doing that would prevent you from considering the full weight of the scientific evidence.”

The draft acknowledges that full disclosure may not be possible for some studies involving health or proprietary business information; it would empower political appointees at EPA to exempt certain studies from transparency requirements. It also asks for comment on whether EPA should adopt methods, such as those used by the U.S. Centers for Disease Control and Prevention, for only sharing sensitive data with approved researchers.

But the proposal doesn't discuss how much such vetting might cost, or how the rule might affect efforts to protect public health, critics note. "There's no real analysis of what this rule would do, or the costs and benefits ... it's a solution in search of a problem," Frey says.

One prominent advocate of the transparency rule, however, welcomes the new draft. "I'm elated. ... We're making progress," says Steve Milloy of JunkScience.com in Potomac, Maryland, who served on the Trump administration's transition team at EPA. "But it's not the end game by far," he adds, noting the proposal must still be opened to public comment, and that any final policy will likely face a court challenge. Milloy also notes that even if EPA adopts the rule, agency officials will have leeway in interpreting it. "Words have never really mattered," he says. "What matters is how the people in charge implement them."

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Democrats urge career EPA scientist to resist research limits

Proposed EPA rule would prohibit rules based on science that doesn't identify research subjects

Posted Nov 13, 2019 4:43 PM

[Elvina Nawaguna](#)

[Florida senators want federal help on their red tide problem EPA proposes eased regulations on coal-ash pollution Coal-burning utility boosts lobbying, may get eased regulations](#)

The long-serving EPA scientist came to a House committee to defend a Trump administration proposal to limit the kind of science used in environmental rulemaking, but Democrats on the panel urged her to resist the change.

Testifying before the House Science, Space and Technology Committee on Wednesday, Jennifer to stand up against the agency's political leadership as she defended a Trump , EPA's science adviser and principal deputy assistant administrator for science at the agency's Office of Research and Development, defended the agency's "Strengthening Transparency in Regulatory Science" rule as necessary for making sound decisions.

"We're all about protecting public health and the environment and we want to make sure that our data is sound," Orme-Zavaleta said.

But some Democrats on the panel questioned her sincerity in doing so as a scientist. Critics in the scientific community and in Congress warn the rule proposed last year would undermine the agency's ability to carry out its mission and give industry undue influence over environmental policy.

"You cannot be happy that you're here," Rep. [Sean Casten](#), D-Ill., told Orme-Zavaleta at the hearing. "You cannot be happy that your leadership has put you in the position to defend an antiscientific (policy)."

Outdated version

The hearing examining the rule came a day after news reports that the EPA was planning a more expansive version than previously proposed.

Orme-Zavaleta told lawmakers that those news reports were based on an "outdated version" different from what was sent to the Office of Management and Budget for review, but declined to specify the details of the supplemental rule.

She did not respond to lawmakers urging her to oppose the rule.

Orme-Zavaleta has worked at the EPA since 1981 and has a bachelor's degree in zoology, a master of science in zoology and toxicology and a Ph.D. in wildlife science and public health.

Democrats on the panel pointed to her long career as a scientist to question whether she was indeed comfortable defending a rule that has been criticized as an attack on science by public health professionals and the broader scientific community.

Rep. Bill Foster, D-Ill., said that some science isn't or shouldn't be reproducible such as data based on natural or man-made disasters like the BP oil spill in the Gulf.

"To the extent that you're even involved in the final decisions over this, I ask you to stick up to retaining science, the best available science," Foster said.

New York Democrat Rep. Paul Tonko, chairman of the House Energy and Commerce's Environment Subcommittee, said the rule was deceptively named and paid "lip service" to the goals of transparency.

"Any form of this rule — any form — effectively guarantees that political agendas drive rulemaking at the EPA," Tonko said.

Asked by Tonko who would be held accountable "if Americans are sickened as a result of this rule," Orme-Zavaleta said she doesn't know what the final rule will look like.

Transparency

For many questions, Orme-Zavaleta said the agency was still reviewing the public comments, the supplemental rule would provide some clarifications or that she would get back to the panel later. She said she was not involved in drafting the proposed rule.

"No one in this room is against the principle of transparency in science or in our government," Science Chairwoman Eddie Bernice Johnson, D-Texas, said. "The requirement for data to be publicly available is nothing more than an attempt to undercut EPA's mandate to use the best available science."

Republicans on the panel accused Democrats of using the hearing to target the Trump administration. Republicans and conservative groups argue the rule is necessary because, they claimed, the Obama administration used bogus science to write aggressive rules that hurt industry.

"This is about attacking the EPA under the current administration, not improving transparency and scientific integrity," the committee's ranking member Rep. Frank D. Lucas, R-Okla., said. "I believe the EPA's proposed rule is well-intended."

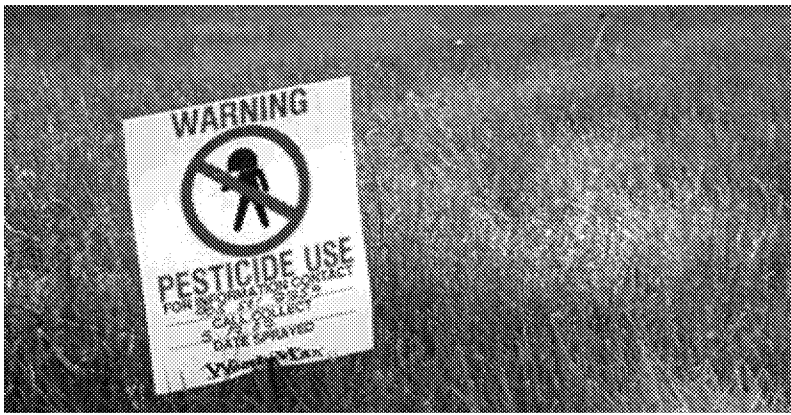
Democrats told Orme-Zavaleta they would support her if she withdrew her support for the rule.

"We're sitting at a moment where none of this assault of science happens if people like you stand up," Casten said. "If and when you stand up, we've got your back, but please stand up."

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EPA proposes relaxed rules for widely used insecticides

Marc Heller, E&E News reporter



Published: Wednesday, November 13, 2019

A sign warns of pesticide use. Peter Organisciak/Flickr

EPA yesterday proposed watered-down regulations for a set of widely used insecticides linked to a range of human health and environmental concerns.

At issue are pyrethroids, a class of pesticides considered to be highly effective against crop pests. EPA acknowledged that pyrethroids pose threats to pollinators and aquatic life, adding that the risk is greatest with crops such as rice, which is grown around water, and grapes and blueberries.

Backing away from an earlier proposal to expand environmental safeguards, EPA proposed vegetative buffer strips to separate treated crops from waterways, limits on application in the wind and new labeling requirements to discourage consumers from pouring them down drains, for instance.

The proposal brought a rebuke from the Center for Biological Diversity, an environmental group, which said the laxer recommendations overlook the pesticides' human health risks — including autism and Parkinson's disease — and threats to fish and bees.

The agency proposed to renew the registration of five of 23 pyrethroids; action on the remaining ones is pending. In addition, EPA released a set of risk mitigation measures proposed for pyrethroids more generally. The [documents](#) are open for public comment until Jan. 13.

In its proposal, EPA said a vegetative buffer strip of 25 feet should separate treated fields from aquatic habitats, citing the chemicals' toxicity to fish. That's an increase from 10 feet in current regulations but a reduction from 66 feet in earlier EPA recommendations.

In some areas, such as prime farmland or fields where reduced tillage is used, the strip could be 15 feet, EPA said. The smaller area reflects the reduced risk of erosion on such fields, the agency said. Smaller buffer strips would also be called for in Western irrigated areas due to cost concerns, EPA said.

The Center for Biological Diversity accused EPA of bowing to pressure from pesticide makers, which had united behind the chemicals through an organization called the Pyrethroid Working Group.

"There's no floor on how low this administration will stoop to appease the pesticide industry," said Nathan Donley, a senior scientist at CBD.

"Ignoring independent science in favor of whatever pesticide companies want is par for the Trump course. In their relentless push to cripple pesticide protections, EPA officials are shrugging off huge threats to children's health and the survival of bees and other environmentally crucial creatures," Donley said.

CBD also criticized EPA's embrace of a 15 mph wind limitation on the chemicals' application, up from 10 mph in an earlier proposal.

Pyrethroids are manufactured derivatives of natural pesticides called pyrethrins, which in turn come from chrysanthemums. The manufactured version is used on a wide variety of pests indoors and outdoors, including aphids, caterpillars, beetles, mosquitoes and bedbugs.

In agriculture, pyrethroids are commonly sprayed on corn, soybeans, cotton and wheat. About 2.4 million pounds is sprayed on about 47 million acres, EPA said, accounting for multiple applications on the same land.

Like other pesticides, they're also showing signs of reduced effectiveness due to insect resistance. The Michigan Farm Bureau reported last year that oriental fruit moths are showing increased resistance — confirmed by research at Michigan State University — and recommended non-pyrethroid insecticides to use against the moths.

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EPA Gets Partial Win in 9th Cir. Chemical Use Regulations Fight

Nov. 14, 2019, 2:31 PM

- Groups lack standing to challenge use-by-use evaluation
- But EPA barred from excluding all legacy uses

The EPA mostly beat a consolidated challenge to its chemical regulation because some of the environmental, health, and safety groups' injuries are too speculative, but the agency can't categorically exclude legacy uses, the Ninth Circuit ruled Nov. 14.

The groups argued that new Environmental Protection Agency rules on evaluating chemical use risks don't comply with the Toxic Substances Control Act. The rules impermissibly allow the agency to evaluate risks on a use-by-use basis, exclude some uses from the scope of a risk evaluation, and exclude legacy activities from use definitions, the groups told the U.S. Court of Appeals for the Ninth Circuit.

But the groups haven't shown that the EPA actually plans to look at just one or two possible uses before issuing a final determination that the chemical doesn't pose an unreasonable risk, Judge Michelle T. Friedland's opinion said. Any injury from this hypothetical rule application is "too speculative" to provide a basis for review.

Portions of the rules express an intent to limit the scope of a risk evaluation to ignore some uses, the groups said. But those provisions "unambiguously" don't give the EPA the discretion the groups fear, the opinion said. The meaning the groups took from the provisions "is inconsistent with the provisions themselves" because the scope portion refers to included conditions of use without actually excluding any conditions, Friedland said.

The EPA rules excluded "legacy activities"—meaning "legacy uses," "associated disposals," and "legacy disposals"—from conditions of use. But the TSCA's conditions of use definition "clearly includes uses and future disposals of chemicals even if those chemicals were only historically manufactured for those uses," the opinion said. However, the agency can still exclude legacy disposals because that term refers to disposals that have already occurred, Friedland said.

Judges Diarmuid F. O'Scannlain and William H. Pauley III joined Friedland's opinion. Pauley sat by designation from the U.S. District Court for the Southern District of New York.

A Justice Department attorney argued for the EPA. An attorney with the Natural Resources Defense Counsel argued the case for the groups, which include the Sierra Club.

The Sierra Club has received funding from Bloomberg Philanthropies, the charitable organization founded by Michael Bloomberg. Bloomberg Law is operated by entities controlled by Michael Bloomberg.

The case is Safer Chems., Healthy Families v. EPA, 9th Cir., No. 17-72260, opinion 11/14/19.

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EPA and NWRA honor veterans in waste and recycling industry

More than 20 veterans representing the U.S. Army, Navy, Marine Corps and National Guard received a challenge coin for the special event.

November 14, 2019

[Posted by Theresa Cottom](#)

[Environmental Protection Agency](#) (EPA) Administrator Andrew Wheeler recently joined [National Waste and Recycling Association](#) (NWRA) President Darrell Smith to honor waste and recycling industry employees for their service in the military. More than 20 veterans representing the U.S. Army, Navy, Marine Corps and National Guard received a challenge coin designed for the special event.

“These brave men and women have served in our armed forces at home and abroad and sacrificed to protect our freedoms. I am pleased to honor their service and glad that Administrator Wheeler could join us,” Smith says in a news release.

The list of honorees recognized at the event is as follows:

- Daniel Negrón is a veteran of the Air Force with over 20 years of service. He retired with the rank of master sergeant. Daniel is currently the general manager of Recology Golden Gate.
- Steven Bentley is a veteran of the Marine Corps and the Army. He served in the Marines from 1989 to 1993 where earned the rank of E3 and served in the Army from 1993 to 1996 where earned the rank E4. Steven is currently a residential collection driver for Waste Management.
- James Obazee is a veteran of the Army. He served from 2007-2012 and earned the rank of E4. He is currently a residential collection driver for Waste Management.
- Steve Ciarlo is a veteran of the Air Force. He served from 2000-2007 and earned the rank of staff sergeant. He is currently a waste collection driver for Waste Management.
- Eric Crawley is a veteran of the Army. He served from 1982 to 1986 and earned the rank of Sergeant. He is currently a roll-off driver for Waste Management.
- Matthew Harp is a veteran of the Navy. He served from 2008-2011. He is currently a roll-off driver for Waste Management.
- Zac Stuart is a veteran of the Army. He served from 2003-2012 and earned the rank of E-6. He is currently a residential driver for Waste Management.
- Doug Usher is a veteran of the Wisconsin National Guard. He served from 1989-1992 and earned the rank of Private First Class. He is currently a FEL-recycling collection driver.
- John Burdette is a veteran of the Army National Guard. He served from 1993-2010 and earned the rank of sergeant. He is currently a residential collection driver for Waste Management.

- Donald Hetzel is a veteran of the Army. He served from 1983-1987 and earned the rank of sergeant. He is currently a driver for Waste Management.
- James Miller is a veteran of the Navy. He served from 1987-1991 and he earned the rank of petty officer, third class. He is currently a dispatcher for Waste Management.
- John McLaren is a veteran of the Marine Corps. He served from 1974-1980 and earned the rank of corporal. He is currently a roll off driver for Waste Management.
- Jose Rodriguez is a veteran of the Army and Navy. He served from 1989-1992 where he earned the rank E4. He is currently a partner at Red Bags.
- Pedro Garcia is a veteran of the Marine Corps. He served from 2000-2013 where he earned the rank of gunnery sergeant. Pedro is currently the general manager of post collection in the Dallas-Fort Worth area for Republic Services.
- Tim Tiemann is a veteran of the Marine Corps and Marine Corps Reserves. He served from 1984-1992 and earned the rank of Sergeant. He is currently an operations manager for Republic Services.
- Barry VanLaarhoven is a veteran of the Army National Guard. He served from 1988-1999 where he earned the rank of staff sergeant. He is currently the vice president and Boston office lead for Civil and Environmental Consultants Inc.
- Michael Cropley is a veteran of the Navy. He served from 2001 to 2007. He works for TCF Recycling Facilities where he is currently a division manager.
- James Blackeagle is a veteran of the Navy. He served in 1982 and is a roll-off driver with Advanced Disposal.
- Tyler Bauer is a veteran of the Marine Corps. He served from 2004-2009 where earned the rank of sergeant. He is a production manager for McNeilus.
- Ken Jackson is a veteran of the Navy. He served from 1973-1977 where he earned the rank of petty officer, second class. Ken is the director of plant operations for Curtis Bay Medical Waste Services.
- LaWanda Jones is a veteran of the Army where she earned the rank E4. LaWanda is the director of operations for the NWRA.

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EPA Must Face Activists' Lake Erie Phosphorus Pollution Lawsuit

Nov. 14, 2019, 12:23 PM

- EPA wrong to approve Ohio's Lake Erie plan, groups say
- Groups plausibly alleged Clean Water Act, procedural violations

The EPA can't dodge a consolidated lawsuit over phosphorus pollution in Lake Erie, because plaintiff groups plausibly alleged procedural violations connected to the agency's enforcement of the Clean Water Act, an Ohio federal district judge ruled.

Western Lake Erie suffers from harmful algae blooms linked to phosphorus pollution, and Ohio lowered the lake's priority for pollution cleanup.

Two environmental groups and a local county commissioner board plausibly alleged that the Environmental Protection Agency shouldn't have approved Ohio's impaired waters list and its new, lower Lake Erie priority ranking, the U.S. District Court for the Northern District of Ohio said Nov. 13.

The Environmental Law and Policy Center and Advocates for a Clean Lake Erie challenged the EPA's approval of the list, calling it arbitrary and capricious because Ohio went from listing the lake's western portion as one of its highest priorities for daily pollution limits in 2016 to a low priority in 2018.

The Act requires states to consider the severity of the pollution and the water body's uses when creating its priority ranking, Judge James G. Carr's order denying dismissal of the complaint said.

Rankings

The priority ranking also needs to identify which waters are targeted for Total Maximum Daily Load (TMDL) plans in the next two years. A TMDL is the maximum amount of pollutants a body of water can receive while still complying with the law.

Ohio indefinitely deferred a TMDL for Lake Erie's western portions without including a timeline for a future plan, which essentially amounted to no TMDL being set, the court said.

The EPA also didn't identify any "rational connection" between the state's low priority ranking and the pollution severity and water use, the order said. Courts have the authority to review claims that the EPA "failed to consider the statutory criteria that drive TMDL development," Carr said.

Ohio changed the lake's priority to low just weeks after declaring it a high priority in an amended version of a previous report, the court said. "A state's priority ranking drives the state's schedule for developing TMDLs," Carr said. Ohio's new low priority ranking "effectively stopped 'the hands on the TMDL clock.'"

ELPC attorneys and a professor from Northwestern Pritzker School of Law represented the environmental groups. Toledo, Ohio-based Fritz Byers represented the county board. The Justice Department represented the EPA.

The case is Envtl. Law & Policy Ctr. v. EPA, 2019 BL 436293, N.D. Ohio, No. 19-cv-00295, motion to dismiss denied 11/13/19.

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EPA study rebuked in escalating clash over soot standards

Sean Reilly, E&E News reporter

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A girl wearing a dust mask. Tetra Images Tetra Images/Newscom

EPA's preliminary findings on an air pollution standard with widespread public health implications are being bluntly rejected by most members of a key advisory panel.

The panel's conclusions are likely to sharpen the controversy over a review criticized by detractors for turning a regulatory decision into a politicized process with a predetermined outcome.

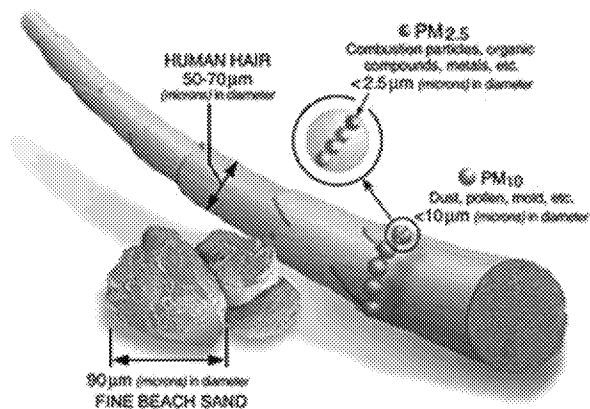
A majority on the Clean Air Scientific Advisory Committee said that in light of "limitations" in the findings, EPA "does not establish that new scientific evidence and data reasonably call into question the public health protection" afforded by the existing annual standard for fine particles, according to the draft report released late yesterday.

The draft document is a follow-up to last month's public meeting at which the committee, usually known by its acronym CASAC, split 4-2 in favor of keeping the status quo (E&E News PM, Oct. 25). Members are set to revisit that standoff at another gathering early next month near EPA's offices in Research Triangle Park, N.C.

In the new report, the majority, led by Chairman Tony Cox, faults the preliminary findings by EPA staff on several fronts, charging that they fail to provide "a sufficiently comprehensive" assessment of the science needed to understand particulate matter's health effects and don't do enough to explain the causal connection.

Explicitly dissenting was Dr. Mark Frampton, a retired University of Rochester professor of medicine who repeatedly challenged Cox at last month's meeting. The evidence supports lowering the annual threshold for fine particles, now at 12 micrograms per cubic meter of air, to as low as 8 micrograms per cubic meter, Frampton wrote. He took the occasion to again assail the handling of the legally required review under a fast-track process imposed by EPA's political leadership.

Last fall, for example, EPA Administrator Andrew Wheeler fired an auxiliary panel of experts created to furnish added know-how to the review. Wheeler later billed that unprecedented step as a streamlining move. He recently named a pool of consultants as a substitute. But the pool lacks "sufficient expertise and experience" in the key field of air pollution epidemiology research, Frampton wrote, adding that restrictions on communicating with those consultants prevent "open and frank discussions that are part of the process of achieving consensus."



[+] Size comparisons for PM particles. EPA

Fine particulate matter, often dubbed soot, is formally known as PM_{2.5} because individual grains are no bigger than 2.5 microns in diameter, or one-thirtieth the width of a human hair. PM_{2.5} is linked to an array of cardiovascular and lung problems, including a higher risk of premature death in some circumstances.

The existing annual standard, last revised in 2012, is too weak to prevent thousands of early deaths, EPA air staff concluded in the preliminary assessment released earlier this year. Evidence of PM_{2.5}'s dangers continues to mount. One recent study found that black carbon particles can migrate from a pregnant woman's lungs to the placenta surrounding her baby ([Greenwire](#), Sept. 17). Another linked especially tiny ultrafine particles to heightened risk of brain cancer ([Greenwire](#), Nov. 13).

Under the Clean Air Act, particulate matter is among a half-dozen pollutants for which EPA is required to periodically assess and, if needed, revise the National Ambient Air Quality Standards based on the latest research into their health and environmental effects.

The current review, however, has been engulfed in turmoil as critics charge that the Trump administration is rigging the review process.

The CASAC's majority conclusion that no change is needed to the annual PM_{2.5} standard "is a logical fallacy based on ignoring relevant scientific evidence," Chris Frey, a North Carolina State University engineering professor, said in a statement today. Frey was on the auxiliary panel fired by Wheeler. That panel has since regrouped unofficially with the help of the Union of Concerned Scientists and found that both the annual and 24-hour PM_{2.5} standards should be stronger.

At last month's CASAC meeting, however, Cox argued that research cited by EPA failed to account for the effects of temperature and other "confounding" factors on the results, suggesting that a tighter annual limit is warranted ([E&E News PM](#), Oct. 24). Cox, a Denver-based consultant who has previously done work for groups like the American Petroleum Institute, later told E&E News in an email that his "conclusions are determined solely by the facts and data we have reviewed and deliberated about."

The final decision will rest with Wheeler. In a brief interview last week, acting EPA air chief Anne Idsal said the agency is conducting the review through the "regular process."

"I don't think anything's been predetermined at this point," she said. "Nor would it be appropriate to predetermine that."

Under the truncated timetable set in May 2018 by then-Administrator Scott Pruitt, the review is supposed to conclude by the end of next year, or roughly two years ahead of the previous schedule.

Coupled with other changes, the effect is to undermine "the scientific credibility of the review by shutting out scientific experts from providing input and by reducing the transparency of the process," California Attorney General Xavier Becerra and counterparts from Minnesota, Oregon and three Northeastern states wrote

in [comments](#) filed this week on EPA's preliminary findings in favor of a stricter PM2.5 standard. All are Democrats.

Addressing those concerns, the six wrote, "will help assure that EPA's final rule protects public health and welfare with an adequate margin of safety, as the Clean Air Act requires."

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